



DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO-C-2021-0031]

Patent and Trademark Public Advisory Committees

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for nominations for the Patent and Trademark Public Advisory Committees.

SUMMARY: On November 29, 1999, the President signed into law the Patent and Trademark Office Efficiency Act (1999 Act), which, among other things, established two Public Advisory Committees to review the policies, goals, performance, budget, and user fees of the United States Patent and Trademark Office (USPTO) with respect to patents, in the case of the Patent Public Advisory Committee (PPAC), and trademarks, in the case of the Trademark Public Advisory Committee (TPAC), and to advise the Director of the USPTO on these matters (now codified in the United States Code). The America Invents Act Technical Corrections Act made several amendments to the 1999 Act, including the requirement that the terms of the USPTO Public Advisory Committee members be realigned by 2014, so that December 1 will be used as the start and end date, with terms staggered so that each year, three existing terms expire and three new terms begin on December 1. With this current notice, the USPTO is requesting nominations for up to three members of the PPAC and up to three members of the TPAC, for terms of three years that will begin on December 1, 2021.

DATES: Nominations must be electronically transmitted on or before July 9, 2021.

ADDRESSES: Persons wishing to submit nominations will be required to electronically complete the appropriate Public Advisory Committee application form by entering detailed information and qualifications at: <https://tinyurl.com/ynae4a67> for the Patent Public Advisory Committee, or <https://tinyurl.com/hcux6462> for the Trademark Public Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Cordelia Zecher, Acting Chief of Staff, Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, at 571-272-8600.

SUPPLEMENTARY INFORMATION: The PPAC and TPAC members shall:

- Advise the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on matters relating to policies, goals, performance, budget, and user fees of the USPTO relating to patents and trademarks, respectively (35 U.S.C. 5); and
- Within 60 days after the end of each fiscal year: (1) prepare an annual report on matters listed above; (2) transmit the report to the Secretary of Commerce (Secretary), the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and (3) publish the report in the Official Gazette of the USPTO. *Id.*

Public Advisory Committees

The Public Advisory Committees are each composed of nine voting members who are appointed by the Secretary and serve at the pleasure of the Secretary for three-year terms. Members are eligible for reappointment for a second consecutive three-year term. The Public Advisory Committee members must be citizens of the United States and are chosen to represent the interests of diverse users of the USPTO with respect to patents, in the case of the PPAC, and trademarks, in the case of the TPAC. Members must represent small and large entity applicants located in the United States in proportion to the number of applications filed by such applicants. The Committees must include individuals with a “substantial background and achievement in finance, management, labor relations, science, technology, and office automation.” 35 U.S.C. 5(b)(3). Each of the Public Advisory Committees also includes three non-voting members representing each labor organization recognized by the USPTO. Administration policy discourages the appointment of federally registered lobbyists to agency advisory boards and commissions (Lobbyists on Agency Boards and Commissions, <https://obamawhitehouse.archives.gov/blog/2009/09/23/lobbyists-agency-boards->

and-commissions (Sept. 23, 2009); cf. E.O. 13490, 74 FR 4673 (Jan. 21, 2009) (While Executive Order 13490 does not specifically apply to federally registered lobbyists appointed by agency or department heads, it sets forth the administration's general policy of decreasing the influence of special interests in the Federal Government.)

Procedures and Guidelines of the PPAC and TPAC

Each newly appointed member of the PPAC and TPAC will serve for a three-year term that begins on December 1, 2021, and ends on December 1, 2024. As required by the 1999 Act, members of the PPAC and TPAC will receive compensation for each day (including travel time) they attend meetings or engage in the business of their Advisory Committee. The enabling statute states that members are to be compensated at the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under 5 U.S.C. 5314. Committee members are compensated on an hourly basis, calculated at the daily rate. While away from home or their regular place of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703.

Applicability of Certain Ethics Laws

Public Advisory Committee members are Special Government Employees within the meaning of 18 U.S.C. 202. The following additional information includes several, but not all, of the ethics rules that apply to members, and assumes that members are not engaged in Public Advisory Committee business more than 60 days during any period of 365 consecutive days.

- Each member will be required to file a confidential financial disclosure form within 30 days of appointment. 5 CFR 2634.202(c), 2634.204, 2634.903, and 2634.904(b).
- Each member will be subject to many of the public integrity laws, including criminal bars against representing a party in a particular matter that comes before the member's committee and that involves at least one specific party. 18 U.S.C. 205(c); *see also* 18 U.S.C. 207 for post-

membership bars. Also, a member must not act on a matter in which the member (or any of certain closely related entities) has a financial interest. 18 U.S.C. 208.

- Representation of foreign interests may also raise issues. 35 U.S.C. 5(a)(1) and 18 U.S.C. 219.

Meetings of the PPAC and TPAC

Meetings of each Public Advisory Committee will take place at the call of the respective Committee Chair to consider an agenda set by that Chair. Meetings may be conducted in person, telephonically, online, or by other appropriate means. The meetings of each Public Advisory Committee will be open to the public, except each Public Advisory Committee may, by majority vote, meet in an executive session when considering personnel, privileged, or other confidential information.

Nominees must have the ability to participate in Public Advisory Committee business through the internet.

Andrew Hirshfeld,

Commissioner for Patents,

Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.